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**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicants : Thorsten OTT et al.
Serial No. : 09/586,214
Filed : June 2, 2000
For : METHOD AND DEVICE FOR CONTROLLING VEHICLE
SPEED DURING DESCENT
Examiner : Olga HERNANDEZ
Art Unit : 3661
Confirmation No. : 8054

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Signature: 
Jeng H. Lee

**APPELLANTS' SUPPLEMENTAL REPLY BRIEF IN RESPONSE
TO EXAMINER'S ANSWER (UNDER 37 C.F.R. § 1.193)**

S I R :

In response to the Examiner's Answer mailed on July 31, 2003 regarding the above-identified application, and supplemental to the Reply Brief mailed on September 15, 2003, Applicants submit the following additional arguments in support of the appeal of the final rejection.

ARGUMENTS

Claims 1, 2 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,794,735 ("Sigl"). For the additional reasons stated below, the obviousness rejection of claims 1, 2 and 8 should be reversed.

Claim 1 recites "[a] method for controlling a vehicle comprising . . . ***detecting whether the vehicle is traveling on a descent.***" (Emphasis added). In the Examiner's Answer, "the Examiner maintains that the inability to maintain the set speed after the engine output is reduced [as disclosed in Sigl] is the same as detecting the vehicle traveling on a descent (column 3, lines 42-53)." However, Applicants respectfully point out that the Examiner's conclusion is incorrect from purely technical standpoint, i.e., the ability to maintain the set speed after the engine output is reduced is a function of in which gear the vehicle is operating. For example, if the vehicle is operating in the first gear, the reduction of the engine output allows maintenance of the set speed on a downhill road with even a large slope, whereas if the vehicle is operating in the fifth gear, the reduction of the engine output only allows maintenance of the set speed on a downhill road with a gentle slope. Accordingly, since the reduction of engine output while the vehicle is in a certain gear will allow maintenance of the set speed on a downhill road, "the inability to maintain the set speed after the engine output is reduced" clearly is not "the same thing as detecting the vehicle traveling on a descent."

For the foregoing additional reasons, claim 1 and its apparatus counterpart claim 8, as well as claim 2 which depends from claim 1, are patentable over Sigl.

CONCLUSION

For the preceding reasons, it is respectfully submitted that the rejection of claims 1, 2 and 8 under 35 U.S.C. § 103(a) should be reversed.

Respectfully submitted,

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Dated: 9/24, 2003

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